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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,236	07/17/2006	Xavier Prignon	505621	1824
53609 7590 05/15/2009 REINHART BOERNER VAN DEUREN P.C. 2215 PERRYGREEN WAY ROCKFORD, IL 61107				
EXAMINER				
MATTHEWS, TERRELL HOWARD				
ART UNIT		PAPER NUMBER		
3653				
NOTIFICATION DATE		DELIVERY MODE		
05/15/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RockMail@reinhartlaw.com

Office Action Summary

Application No.

10/586,236

Applicant(s)

PRIGNON, XAVIER

Examiner

Terrell H. Matthews

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanke (US-486786) in view of Weit (US-5232096) and in further view of Williams (US-5091077).

Referring to claims 1-14, 16-22. Hanke discloses a "Air Classifying Process And Air Classifier" See at least Figs. 1-2 and respective portions of the specification. Hanke (Fig. 2) teaches a dynamic air classifier for the separation of granular and powdery materials into fractions of different grain sizes comprising a rotary cage (9), wherein said classifier also comprises a recovery chamber (2) for fine materials with a outlet bottom (near duct 20), said chamber being defined by a casing (outer shell), and mobile deflectors (35), wherein said recovery chamber is coaxially arranged in the protrusion of the rotary cage said recovery chamber comprises openings in the casing allowing the passage of the centrifuged material towards ducts for collecting the material located outside the chamber (Fig. 2, see openings in cone-shaped shell leading to ducts near 23). Further, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight

as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the device cited above is certainly capable of using the vortex created by the rotary cage for cycloning said material and extracting air through the bottom duct (near 20). Further, the claimed method is anticipated in the normal operation of the device cited above (col. 5, 6). Hanke does not disclose wherein the recovery chamber is adapted to use the vortex created by the rotary cage for cycloning said material or wherein the recovery chamber separates fine particles from air. Williams discloses a "Material Air Classifier". See Figs. 1-4 and respective portions of the specification. Williams further disclose a rotary cage (11), a recovery chamber (15) having an outlet bottom (17) being defined by a casing, wherein the recovery chamber receives the fine particles mixed with air from the rotary cage and further discloses wherein the fine particles separated from the air exit through the fine particles exit and dedusted air exits through the air outlet (See at least Fig. 1). Weit discloses a "Material Dispersion Apparatus". See Figs. 1-4 and respective portions of the specification. Furthermore, Weit discloses a rotary cage adapted to create a vortex when subject to fluid flow; a recovery chamber adapted to use the vortex created by the rotary cage and wherein the rotary chamber comprises openings allowing passage of the material towards ducts for collecting the material outside the chamber (See at least Fig. 1). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Hanke to include the teachings of Weit and Williams wherein the recovery chamber was open to use the vortex created by the rotary chamber so that a more efficient and thorough separation of the materials could

occur during operation, through the use of the vortex aiding in separation within the recovery chamber and wherein the fine particles separated from air exit through the fine particles outlet and a dedusted air exits through the air outlet so a more efficient separation of fine particles from air could occur which would aid in more effective air classifying.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Patrick H. Mackey/
Supervisory Patent Examiner, Art
Unit 3653

THM